



A G E N D A

General Plan/LCP Implementation Committee

November 18, 2009

3:30 p.m.

City Council Chambers

1. Approve Action Minutes from September 30, 2009
Attachment No. 1 3:30-3:35pm
2. Draft Zoning Code Review
Attachment No. 2
 - A. Submerged Area Memo - Review and provide direction to staff
 - B. Oral update on other Code tasks3:35-5:00pm
3. Future Meeting Dates – Schedule Dates 5:00-5:10pm
4. Items for Future Agenda 5:10-5:15pm
5. Public Comments on non-agenda items 5:15-5:20pm
6. Adjourn

Attachments:

1. Draft Action Minutes from September 30, 2009
2. Draft Zoning Code Review Support Documents

The Draft Zoning Code (Second Public Draft) was previously distributed and is available on-line at: <http://www.newportbeachca.gov/index.aspx?page=1284> or contact the Planning Department at 949-644-3200.

Attachment No. 1

Action Minutes from September 30, 2009



CITY OF NEWPORT BEACH GENERAL PLAN/LCP IMPLEMENTATION COMMITTEE

DRAFT ACTION MINUTES

Action Minutes of the General Plan/LCP Implementation Committee held at the City Council Chambers, City of Newport Beach, on **Wednesday, September 30, 2009**

Members Present:

X	Ed Selich, Mayor, Chairman
X	Leslie Daigle, Council Member
X	Don Webb, Council Member
X	Barry Eaton, Planning Commissioner
X	Robert Hawkins, Planning Commissioner
X	Michael Toerge, Planning Commissioner

Advisory Group Members Present:

	Mark Cross
	Larry Frapwell
	William Guidero
X	Ian Harrison
X	Brion Jeannette
	Don Krotee
	Todd Schooler
	Kevin Weeda
	Dennis Wood

Staff Representatives:

X	Sharon Wood, Assistant City Manager
X	David Lepo, Planning Director
E	City Attorney
X	James Campbell, Principal Planner
X	Gregg Ramirez, Senior Planner
X	Melinda Whelan, Assistant Planner

E = Excused Absence

Committee Actions

1. **Agenda Item No. 1** – Approval of minutes for September 16, 2009.

Action: Committee approved draft minutes

Vote: Consensus

2. Agenda Item No. 2 – Draft Zoning Code Review – A. Time Extensions for Projects requiring a Coastal Development Permit, B. Environmental Study Areas – review proposed regulations, C. Residential Regulations – review revised regulations:

Action: The Committee reviewed the proposed regulations and provided the following action and suggestions:

Item A. Time Extensions for Projects requiring a Coastal Development Permit:

- Section 20.56.060A.3 pg. 5-43 – reinsert the previously deleted section to maintain current language

Item B. Environmental Study Areas proposed regulations Section 20.30.030 suggestions:

- Subsection B.1. – add “applicable” to before “previous biological report” to prevent the use of out of date biological reports
- Subsection B.2.e. – tighten up language to avoid light spilling into adjacent ESA areas
- Subsection B.2.c. – strike “eliminate” and “potential” and replace with “prohibit” before “their introduction to the ESA.”
- Subsection B.2.b. – strike “i.e.”
- For a future discussion – consider deleting entire Section 20.30.030 and implement policies through other means such as the local CEQA guidelines or policy

Public Comment on this item:

- Jan Vandersloot expressed a concern that there will be an emasculation of environmental protection inconsistent with the General Plan policy and he suggested a different approach – exempt only smaller projects

Item C. Residential Regulations – revised regulations with a focus on open space suggestions:

- Subsection 20.50.010 D.1.b. needed to be revised to reflect similar terms with Subsection 20.50.010 D.1.a.
- The Committee was unsure why CDM would need a different standard for open space; why not have one standard. Staff responded that the increase percentage for CDM would effectively limit the floor area to what the 1.5 floor area limit would achieve.
- Although open space would create a reduction in above grade floor area and building mass and create building modulation, the committee wants to see graphics or sketches of examples of build outs in different areas of the City with the existing and proposed regulations to show impacts of different open space regulations

3. Agenda Item No. 3 – Items for Future Agenda

The next meeting is November 18 and the goal is to have the following items on the agenda: 1. Update on Inclusionary Housing Ordinance, 2. Report on

submerged lands and setbacks/floor area implications, 3. Residential open space with comparison sketches and graphics, and 4. Canyon development regulations update.

Vote: Consensus

4. Agenda Item No. 4 – Public Comments on non-agenda items

A resident expressed concern with a neighbor parking within a side yard setback adjacent dwelling at 3600 Seashore Drive and her desire to have the revised code prohibit parking in side yards.

Vote: Consensus

5. Agenda Item No. 5 – Adjourn

Meeting adjourned at 5:00 p.m.

Attachment No. 2

Submerged Area Report



PLANNING DEPARTMENT
CITY HALL
3300 NEWPORT BOULEVARD
P. O. BOX 1768
NEWPORT BEACH, CALIFORNIA
92658-8915

Memorandum

To: GP/LCP Committee
From: Planning Department
Date: November 18, 2009
Re: Submerged Area – Development Standards

For the purpose of this report Submerged Area is defined as: *An area which is below Mean Higher High Water (see definitions, page 2).*

Although there are a few exceptions, current regulations and practice includes the Submerged Area of a lot in the calculation of maximum permitted floor area for both residential and non-residential zoning districts. Since the filling of coastal waters is essentially prohibited, the location of existing bulkheads will not change. Should the Submerged Area continue to be included in the calculation of permitted floor area?

Additionally, some residential setbacks create a buildable area that includes Submerged Area. The result is a buildable area beyond existing bulkheads. If these setbacks are retained, some of the proposed residential development standards, such as the setback plane and third floor setback, may not achieve the desired effect. Should the setbacks for these lots be revised?

In addition to the city requirements, most waterfront development requires approval of a Coastal Development Permit, which has played a role in the existing development pattern.

This report contains illustrative exhibits (attached) as well as existing definitions, development regulations and policies related to Submerged Areas. Direction received from the Committee will enable staff to clarify regulations for inclusion in the draft code.

Exhibits (Attached)

The attached exhibits illustrate the four most common examples of legal lots that include Submerged Areas. Examples 1, 2 and 3 also indicate the location of setbacks in Submerged Areas.

Definitions

The following are relevant definitions from the current zoning code, Title 17 and the CLUP.

- **Buildable Area:** Lot size minus the setbacks.
- **Bulkhead Setback** - A minimum setback of 10 feet shall be maintained from the bulkhead line.
- **Bulkhead** - A retaining wall or similar structure constructed along a waterfront.
- **Bulkhead Line** - The term "bulkhead line" shall mean the harbor land/water perimeter lines established in Newport Harbor by the Federal Government which defines the permitted limit of filling or solid structures that may be constructed in the Harbor. The establishment of bulkhead lines does not necessarily allow the property owner to build to the limits of the bulkhead line due to potential environmental considerations established by the State of California and/or the Federal Government.
- **Common Law Public Trust** - for commerce, navigation, fisheries, recreation, and other public purposes. Public Trust Lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed and which were subject to the Public Trust at any time (from California Code of Regulations, Section 13577; see tidelands and submerged lands).
- **Mean Higher High Water** - The term "mean higher high water" shall mean the nineteen (19) year average of only the higher high water heights.
- **Submerged Area:** An area which is below Mean Higher High Water.

Existing Zoning Code Development Regulations

R-1 and R-2 Zoning Districts (See Examples 1 and 2)

- **Setbacks:** the minimum depth required for rear yards abutting or adjacent to the waterfront 10', except as may be otherwise indicated on the Districting Maps. Distances shown on the Districting Maps are measured from the rear property line, unless a different line is shown on the Districting Map.
- **Maximum Floor Area:** Submerged Area within the buildable area is included in maximum floor area calculation. Maximum floor area is the buildable area times 2.

Multi-Family Zoning District (See Example 3)

- **Setbacks:** the minimum depth required for rear yards abutting or adjacent to the waterfront 10', except as may be otherwise indicated on the Districting Maps. Distances shown on the Districting Maps are measured from the rear property line, unless a different line is shown on the Districting Map.

- **Maximum Floor Area:** Submerged Area within the buildable area is included in maximum floor area calculation. Maximum floor area is the buildable area times 1.75.
- **Density:** One unit per 1,200 square feet of lot area. Areas which have a slope greater than 2:1 or which are submerged are excluded from the calculation. ***Important note – Of the 4 MFR lots containing Submerged Area, all but the Aerie property have a dwelling unit maximum specified in the General Plan and Zoning Code which are different than the code standard of 1/1200.***

Non-Residential Zoning Districts (See Example 4)

- **Setbacks:** 10' bulkhead setback;
- **Floor Area Ratio Calculation:** The existing code is silent on whether to include Submerged Area in the calculation. Historical practice is to include the Submerged Area in most cases.

Coastal Land Use Plan and the Coastal Act

Tidelands and submerged lands are State lands held in trust by the City of Newport Beach, the County of Orange or State resource agencies. Wetlands, inner wetlands, tidelands and open coastal waters are prohibited from development or filling. These lands are subject to the public trust doctrine and are limited to public trust uses, such as navigation, fisheries, commerce, public access, water-oriented recreation, open space and environmental protection.

A Coastal Development Permit (CDP) is required for all of the following:

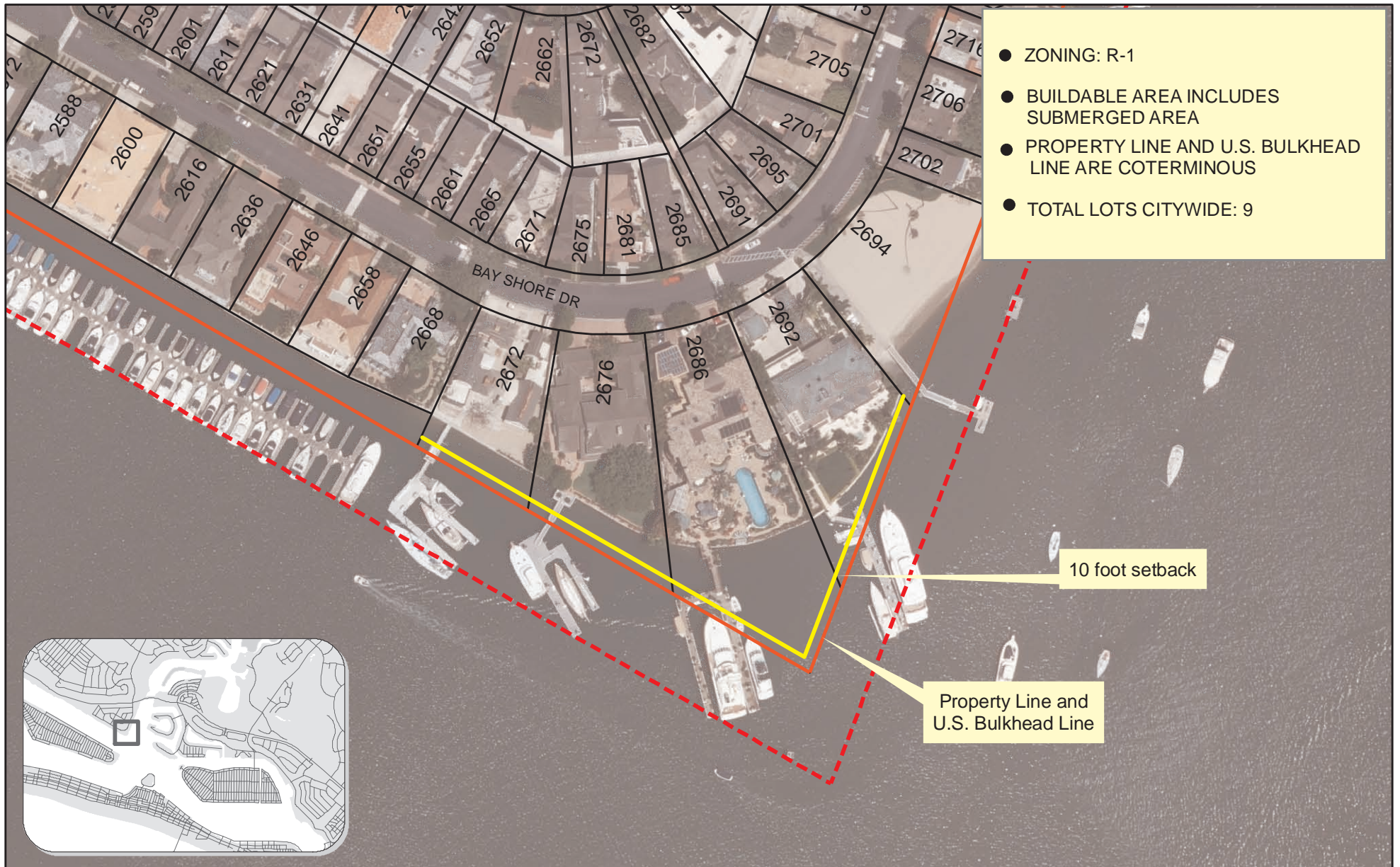
- all new developments on the water;
- projects that increase the existing square footage or height by 10 percent ; and
- renovations that alter more than 50 percent of exterior structural members.

Related Coastal Land Use Plan Policies

3.1.4-7. Design and site bulkheads to protect the character of the existing shoreline profiles and avoid encroachment onto public tidelands.

3.1.4-8. Limit bulkhead expansion or encroachment into coastal waters to the minimum extent necessary to repair, maintain, or replace an existing bulkhead and do not allow the backfill to create new usable residential land areas.

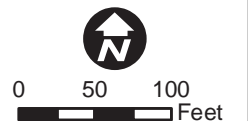
4.2.3-17. Continue to limit residential and commercial structures permitted to encroach beyond the bulkhead line to piers and docks used exclusively for berthing of vessels. However, this policy shall not be construed to allow development that requires the filling of open coastal waters, wetlands or estuaries that would require mitigation for the loss of valuable habitat in order to place structures closer to the bulkhead line or create usable land areas.

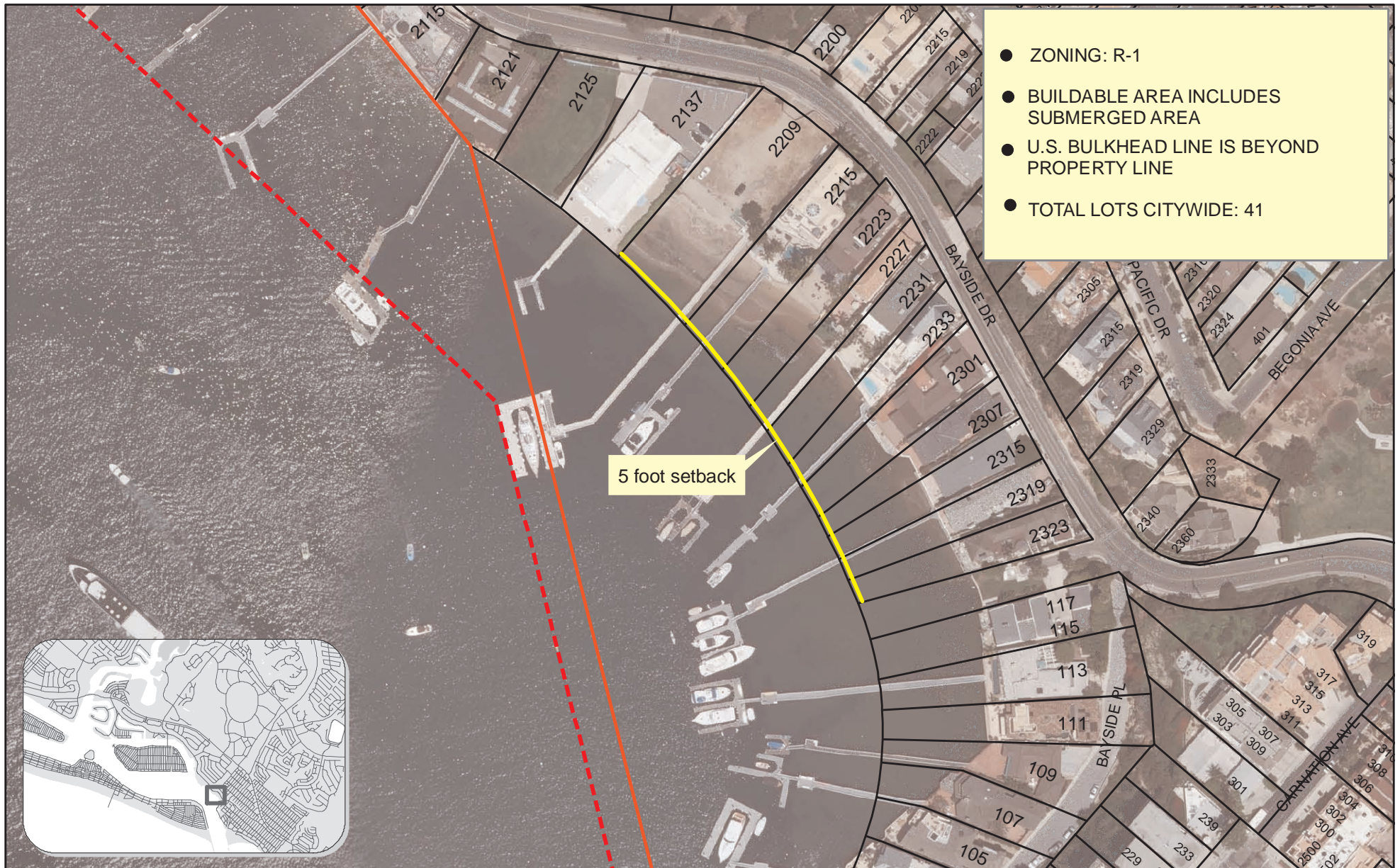


Example 1

2672 - 2692 Bayshore Dr

— U.S. Bulkhead Line
 - - - Pierhead
 — Property Lines





- ZONING: R-1
- BUILDABLE AREA INCLUDES SUBMERGED AREA
- U.S. BULKHEAD LINE IS BEYOND PROPERTY LINE
- TOTAL LOTS CITYWIDE: 41

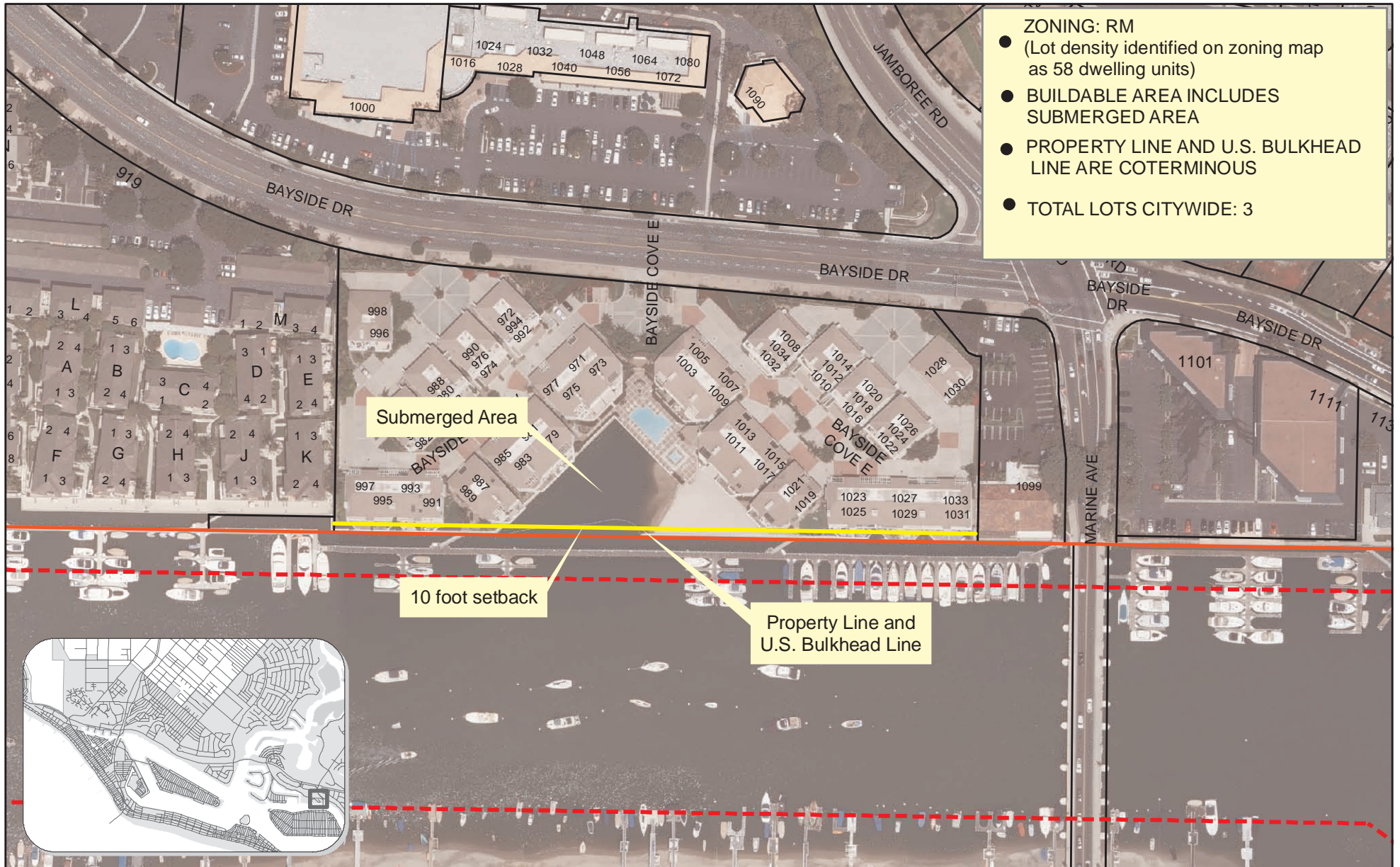


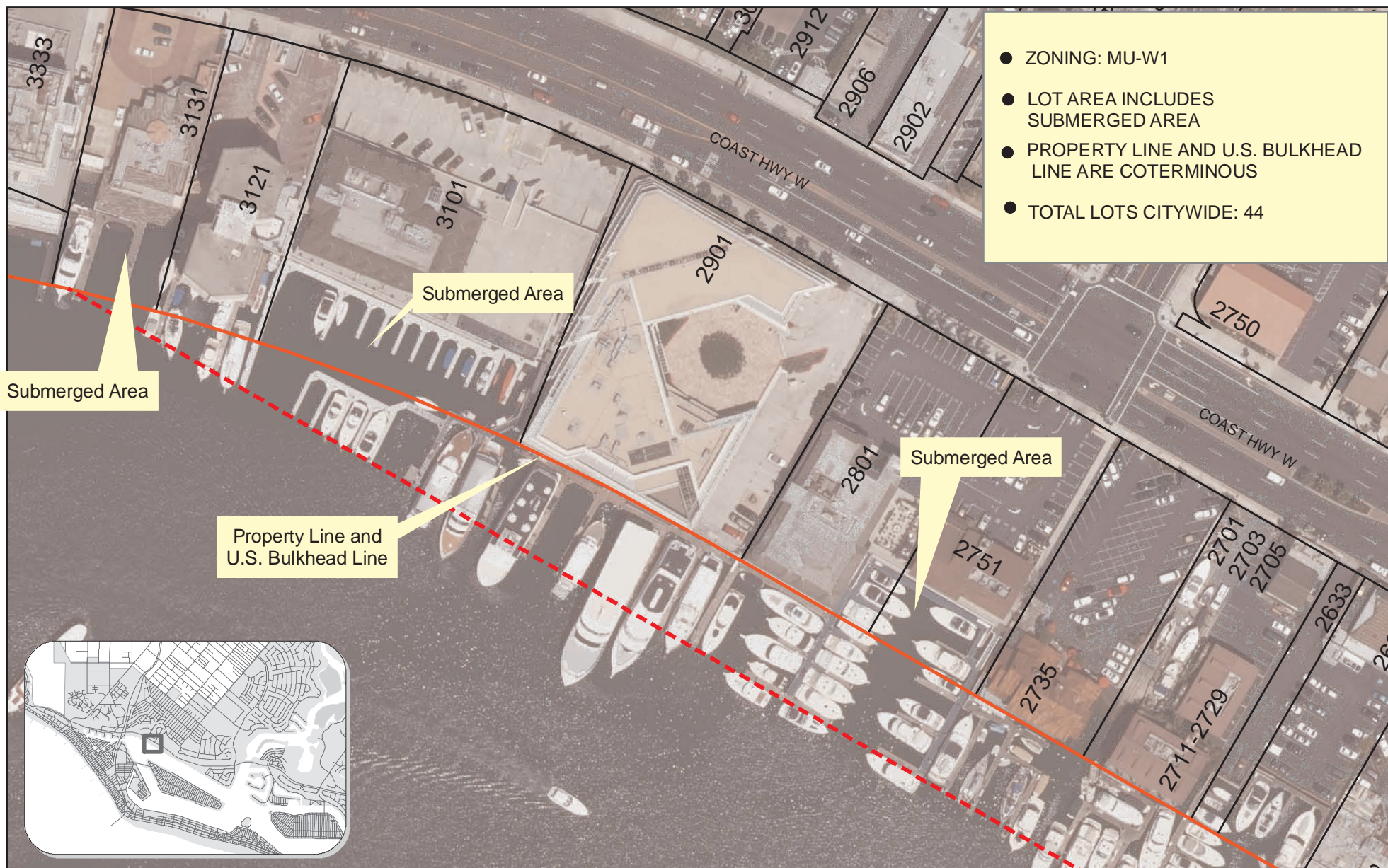
Example 2

2209 - 2323 Bayside Dr

- U.S. Bulkhead Line
- - - Pierhead
- Property Lines



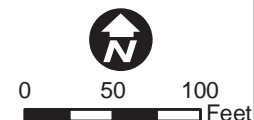




Example 4

Mariner's Mile

- U.S. Bulkhead Line
- - - Pierhead
- Property Lines



**FOLLOWING
MATERIALS
RECEIVED AT
MEETING**

PROPOSED ZONING CODE BASED ON LOTS BETWEEN 30' & 40'

40' X 118' LOT
LOT SIZE = 4,720 SF
LOT - SB = 3,162 SF

BUILDING AREA

1ST FLOOR - 80% B.A. (2,529 SF) / 20% O.S. (632 SF)
2ND FLOOR - 70% B.A. (2,213 SF) / 30% O.S. (948 SF)
3RD FLOOR - 15% B.A. (474 SF)
BASEMENT - 100% B.A. (3,162 SF)
TOTAL MAX. B.A. = 8,379 SF

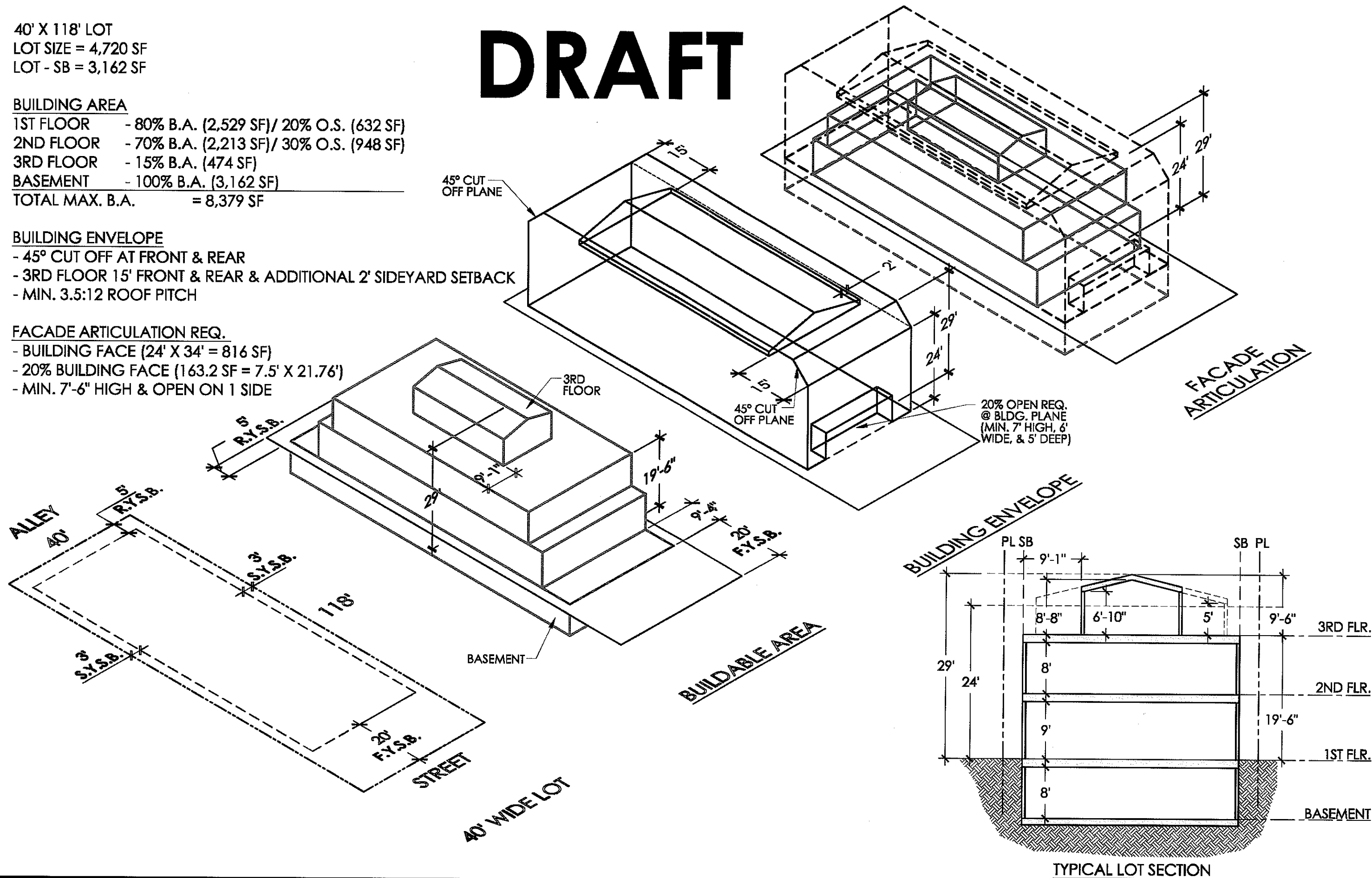
BUILDING ENVELOPE

- 45° CUT OFF AT FRONT & REAR
- 3RD FLOOR 15' FRONT & REAR & ADDITIONAL 2' SIDEYARD SETBACK
- MIN. 3.5:12 ROOF PITCH

FACADE ARTICULATION REQ.

- BUILDING FACE (24' X 34' = 816 SF)
- 20% BUILDING FACE (163.2 SF = 7.5' X 21.76')
- MIN. 7'-6" HIGH & OPEN ON 1 SIDE

DRAFT



N.T.S.
11.17.09

SCALE:
DATE:

PROJECT: ZONING EXHIBIT
DRAWING: CITY OF NEWPORT BEACH

BRION JEANNETTE ARCHITECTURE
470 OLD NEWPORT BLVD, NB, CA 92663 949.645.5854

**CURRENT ZONING BASED ON LOTS 30'
WIDE**

30' X 118' LOT
LOT SIZE = 3,540 SF
LOT - SB = 2,232 SF

BUILDABLE AREA
- 1.5 X B.A. (3,348 SF)

BUILDING ENVELOPE
- 24' / 29' HEIGHT LIMIT

